

1 John Balestriere*
2 **BALESTRIERE FARIELLO**
3 225 Broadway, Suite 2900
4 New York, NY 10007
5 Email: john.balestriere@balestriere.net
6 Telephone: (212) 374-5401
7 Facsimile: (212) 208-2613
8 * Admitted Pro Hac Vice

6 David J. Miclean (SBN 115098)
7 **MICLEAN GLEASON LLP**
8 100 Marine Parkway, Suite 310
9 Redwood Shores, CA 94065
10 Email: dmiclean@micleangleason.com
11 Telephone: (650) 684-1181
12 Facsimile: (650) 684-1182

10 *Attorneys for Plaintiff-Relator*

11 (Additional counsel listed on signature page)

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA, *ex rel.*,
16 JOHN C. PRATHER, *et al.*

17 Plaintiff-Relator

18 vs.

19 AT&T INC., CELLCO PARTNERSHIP
20 d/b/a VERIZON COMMUNICATIONS,
21 QWEST COMMUNICATIONS
22 INTERNATIONAL, INC., SPRINT
NEXTTEL CORP., and TELEPHONE AND
DATA SYSTEMS, INC.,

23 Defendants.

CASE NO. C 09-02457 CRB

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING AMENDMENT
OF RELATOR'S COMPLAINT AND
DEFENDANTS' RESPONSES TO THE
AMENDED COMPLAINT**

1 Relator John C. Prather ("Relator") and Defendants AT&T Inc. ("AT&T"), Cellco
2 Partnership d/b/a Verizon Wireless ("Verizon"), Qwest Communications International
3 Inc. ("Qwest"), and Sprint Nextel Corporation ("Sprint"), (collectively, "Defendants"),
4 by and through their respective counsel and subject to the approval of the Court, hereby
5 stipulate as follows:

6 WHEREAS, the Defendants filed a joint motion to dismiss ("the Motion")
7 Relator's complaint ("the Complaint") based on Federal Rules of Civil Procedure 9(b),
8 12(b)(1), and 12(b)(6) on January 18, 2012 (Dkt. No. 63);

9 WHEREAS, at the hearing for the Motion on April 20, 2012, the Court granted the
10 Motion with leave to amend (Dkt. No. 80) and permitted discovery on issues raised in
11 the Motion concerning subject matter jurisdiction;

12 WHEREAS, Relator intends to file his amended complaint ("the Amended
13 Complaint") on or before July 18, 2012, a date to which Defendants have consented;

14 WHEREAS, the parties have agreed that Defendants have no duty to respond to
15 the Amended Complaint until the parties, subsequent to the filing of the Amended
16 Complaint, meet and confer over a response date and discovery schedule on the issue of
17 whether the Amended Complaint is barred for lack of subject matter jurisdiction, submit
18 a scheduling proposal to the Court, and a response date is entered;

19 WHEREAS, the parties have agreed that they will meet and confer over a
20 response date and discovery schedule by no later than August 1, 2012;

21 WHEREAS, the parties have agreed that they will submit a proposed scheduling
22 order setting forth Defendants' response date and a discovery schedule to the Court by
23 August 8, 2012;

24 NOW THEREFORE, IT IS HEREBY STIPULATED by the undersigned counsel on
25 behalf of the parties identified below that:

26 (1) Relator shall be entitled to file his Amended Complaint on or before July
27 18, 2012; and
28

1 (2) Defendants shall not be obligated to respond to the Amended Complaint
2 until the parties, subsequent to July 18, 2012, meet and confer over a response date and
3 discovery schedule, submit a scheduling proposal to the Court, and a response date is
4 entered; and

5 (3) The parties shall meet and confer regarding Defendants' response date and
6 the discovery schedule by no later than August 1, 2012; and

7 (4) The parties shall submit a proposed scheduling order or, if they cannot
8 agree, their respective positions regarding a response date and discovery schedule to the
9 Court by August 8, 2012.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 DATED: May 23, 2012

BALESTRIERE FARIELLO

2
3 By: /s/ John G. Balestriere
4 John G. Balestriere
Attorneys for Relator John C. Prather

5 DATED: May 23, 2012

MUNGER, TOLLES & OLSON LLP

6
7
8 By: /s/ Jerome C. Roth
Jerome C. Roth
9 Attorneys for Defendant
Cellco Communications d/b/a Verizon
10 Wireless

11 DATED: May 23, 2012

PERKINS COIE LLP

12
13 By: /s/ David F. Taylor
David F. Taylor
14 Attorneys for Defendants Sprint Nextel
Corporation and Qwest Communications
15 International Inc.

16 DATED: May 23, 2012

SIDLEY AUSTIN LLP

17
18 By: /s/ Douglas A. Axel
Douglas A. Axel
19 Attorneys for Defendant AT&T Inc.

20 DATED: May 23, 2012

WILLIAMS & CONNOLLY LLP

21
22 By: /s/ Edward C. Barnidge
Edward C. Barnidge (*pro hac vice*)
23 Attorneys for Defendant Sprint Nextel
24 Corporation

25 ATTESTATION UNDER GENERAL ORDER 45, SECTION X.B.

26 I have the authorization of all counsel identified herein to submit this Stipulation
27 and [Proposed] Order.

28 /s/ John G. Balestriere

~~PROPOSED~~ ORDER

Pursuant to the parties' stipulation set forth above, IT IS SO ORDERED.

DATED: May 25, 2012

